

PLANNING COMMISSION (203) 797-4525 (203) 797-4586 (FAX)

MINUTES FEBRUARY 17, 2010

The meeting was called to order by Chairman Arnold Finaldi Jr. at 7:30 PM.

Present were Kenneth Keller, Joel Urice, Arnold Finaldi Jr. and Alternates Fil Cerminara and Helen Hoffstaetter. Also present was Associate Planner Jennifer Emminger and Deputy Planning Director Sharon Calitro.

Absent were John Deeb, Edward Manuel and Alternate Paul Blaszka. Chairman Finaldi said Mr. Manuel is recovering from surgery.

Chairman Finaldi asked Mr. Cerminara to take Mr. Manuel's place and Ms. Hoffstaetter to take Mr. Deeb's place for the items on tonight's agenda.

Chairman Finaldi said they would table the acceptance of the February 3, 2010 minutes until the next meeting.

7:30 PM – Nemco Limited Partnership – Application for Special Exception to allow Automobile Service Garage ("Automotive Oil & Lube Express") in the CG-20 Zone – 85 Newtown Rd. (#M11004) – SE #694. Public hearing scheduled for February 17, 2010.

Mr. Keller read the legal notice. John McCoy PE spoke in favor of this application and introduced John Hay, who is the developer of this project. He said they are proposing to take an existing building which was once used as a service garage and remodel it into an express lube facility. Mr. McCoy explained that since the application was submitted, the name of the business has changed. The reason for this change is that an express lube has to be a drive-thru operation in order to use that name. Since this is not a drive-thru, they had to modify the proposed name of the business. It is now Lubrication Station Express Oil Change. Revised plans were submitted yesterday to respond to departmental comments. For further reference, this is the vacant building in front of Squeaky's Car Wash. It was originally intended for retail but has not panned out, so this seems to be a use that is conducive to a car wash. Mr. McCoy said they will be redoing the parking lot, the sidewalk and entranceway. They propose to close-off one entranceway on Newtown Rd. but other than that, the only real changes will be to the configuration of the parking lot. The storage area for fuel tanks is under a roofed area located outside of the movement of the car wash in what is now dead space. This was also added to the

revised plans that were submitted yesterday. They had originally intended for this storage to be inside but that limits delivery options. This will be fenced in the same as the refuse area. He said he also tweaked the handicapped parking in response to the Building Dept. comments.

Mr. McCoy submitted a revised elevation drawing. The one submitted with the application had the proposed height of the building at 15 ft. and it really is going to be 18 ft. He said the canopy will be removed from the building and the final outcome will be that the setbacks will become less non-conforming than they were previously. The exterior of the building will be finished to match the car wash. Chairman Finaldi asked if the tanks will be underground and Mr. McCoy said no they will all be above ground. Chairman Finaldi then asked if there will be anything to stop people from driving out of the car wash right into this tank area. Mr. McCoy said he has to revise the plans to show bollards that they propose to install along the outside for that purpose. Mrs. Emminger said Fire Marshal Bill Weber has also requested this be done. Mr. Keller asked about the waste disposal process. Mr. McCoy said some of the discarded oil will be used to power the heating system for the building. Mr. Urice asked if the tanks have a containment system. Mr. McCoy said they are all double walled which is supposed to prevent any leakage. Mr. McCoy then said there will be one entrance/exit on the Newtown Rd. side of the property with no left turn out. This restriction was part of the original approval and DOT has insisted it be maintained. Mr. Cerminara asked if cars leaving the car wash could easily enter this property. Mr. McCoy said it could be done, but not easily. He added that the car wash employees drive the cars to the front of their building to dry them so that should help discourage that. Mr. Urice asked if there is a review from the City Traffic Engineer and Mr. McCoy said it is the same as the original approval. Ms. Hoffstaetter asked about the existing screening and the side yard setback. Mr. McCoy said it is an existing bank with low vegetation and trees. He added that they are not planning on changing anything. They are hoping that the new building skin and roof would be more attractive than what has existed there for years.

Chairman Finaldi asked if there was anyone to speak in opposition to this and there was no one.

Mrs. Emminger said we are still waiting for comments from Fire Marshal regarding the proposed bollards around the outside tanks. She said she expects to receive Engineering Dept. comments although they have given here a verbal okay. Mr. Urice said that is a lot of open issues and suggested they continue the hearing. Mrs. Emminger said she had hoped the Commission would give her some direction as to what they want to do with this later tonight. Chairman Finaldi said they could still do they are telling the applicant now that they want to discuss it later under Other Matters.

Mr. Urice made a motion to continue this matter, with the intention of discussing it later in tonight's meeting. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Urice then said this is a pretty straightforward although the Fire Marshal could find something. Mrs. Emminger pointed out that the traffic issues were dealt with when the site plan for Squeaky's was approved, so there should not be any surprises.

Staples Realty LLC - Application for Special Exception for Nursing Home ("Hancock Hall") in the R-3 Zone - 19, 27 & 31 Staples St. (#G13206, #G13066 &#G14075) - SE #182.

Attorney Gregg Brauneisen briefly reviewed the concerns that were raised at the previous meeting. He said the drainage and lighting issues have been addressed. Steve Sullivan, PE then said they have received signoffs from Engineering, Highway and the City Traffic Engineer. Mr. Sullivan said they also have proposed to clean two City-owned catch basins in hopes of alleviating some of the existing problems. One drain is on Staples St. and the one on the Hancock Hall property. Mr. Keller asked if doing that would help any of the homeowners with their drainage issues. Mr. Sullivan said could not say but he noticed that they seem blocked.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and there was no one.

Mr. Urice said he wanted to follow-up on the neighbors comments about the lighting. Mr. Sullivan said the lighting intensity is within acceptable levels and will not be shining into anyone's living room. Mrs. Emminger said after the last meeting she had approached the Engineering Dept. telling them of neighbor's concerns regarding the drainage. The Engineering Dept. said the applicant is complying with all requirements and it is not the applicant's responsibility to fix a problem caused by the City's drainage. They also told her that if the neighbors have problems, they should contact the Engineering Dept. who will look into it. Mrs. Emminger then read both the Highway Dept. and the Traffic Engineer's comments into the record. Mr. Urice made a motion to close the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

Century 21 Lombardi Realtors/Agriventures Realty LLC - Application for Special Exception for Storage or Sale of Landscape Materials in the CA-80 Zone - 88 Mill Plain Rd. (#D14006) - SE #692.

Mark Kornhaas, Artel Engineering, said they have received comments from the Health Dept certifying that this complies with the Public Water Supply Watershed regulations. They also received the Engineering Dept. comments which are easily addressed. Mr. Urice asked if the bulk storage areas will remain as they are today or will they be replaced with a different type of bins. Mr. Kornhaas said what is there today will probably remain. Mr. Urice asked if they had done anything with the idea of using an aggregate material on the accessway to distinguish it from the regular driveway. Mr. Kornhaas said the revised plans did show crushed stone in this area and they are proposing to add some bollards. Mr. Urice asked if this change will meet the Regulations and Mrs. Emminger said it would. Mr. Urice said he did not get an answer at the previous meeting when he questioned if the parking island storage of materials would be stopped. Mr. Kornhaas said it is the intention that this latest site plan will organize things and straighten things out. He said the intention is to eliminate the need for that, but he cannot guarantee it. He said he mentioned it to Dave O'Leary who told him that sometimes the deliveries come all at once and they need to have them left where they can fit them for the time being. Mr. Urice said he understands this but to leave the materials there indefinitely is a site plan violation. Mr. Kornhaas said he would convey that message to Mr. O'Leary.

Chairman Finaldi asked if there was anyone to speak in opposition to this application and there was no one.

Mr. Keller made a motion to close the public hearing. Ms. Hoffstaetter seconded the motion and it was passed unanimously. Mr. Keller then made a motion to move this matter to number one under Old Business. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

Century 21 Lombardi Realtors/Agriventures Realty LLC - Application for Special Exception for Storage or Sale of Landscape Materials in the CA-80 Zone - 88 Mill Plain Rd. (#D14006) - SE #692.

Chairman Finaldi said that a draft resolution was sent to the Commission members. He asked if there were any questions and there were none. Mr. Urice made a motion to approve this application per the resolution as presented. Ms. Hoffstaetter seconded the motion and it was passed unanimously.

REW BUSINESS:

103 Mill Plain Rd. LLC - Application for Special Exception to allow Medical Office (Chiropractic Office Space) in the CA-80 Zone - 103 Mill Plain Rd. (#C14062) - SE #695. Public hearing scheduled for 3/3/10.

Chairman Finaldi said this application would be on file in the Planning & Zoning Office.

REFERRALS:

8-24 Referral/ February '10 CC Agenda Item # 9 -Adjunct Parking Lease for UB Danbury Inc., 20 Backus Ave.

Sharon Calitro said she had brought a map to show the Commission the location that this refers to. She explained that we received the proposed lease in draft form and the ad hoc committee meeting is scheduled for tomorrow night. The existing leases for airport property were just renewed and this is an adjunct parking area besides the existing additional areas. Mrs. Calitro said parking lots are a permitted use in this zone and this adjunct area is not necessary to meet the parking requirements. It is being done to satisfy a new tenant's requirements. They have adequate parking for the Chuck-E-Cheese that is going in where the Boston Billiards previously was. The parking will be for the new tenant for the former Fortunoff's space. Mr. Keller asked what changes will have to be made to the existing parking. Mrs. Calitro said we do not yet have a revised site plan because we need the lease agreement first. They cannot make changes to land that they don't own or have a lease for. She added that they will have to do some connection to the existing parking area and since this is for more than 20 parking spaces, it will have to come back to the Commission for review. It also will require a floodplain permit and review by the Environmental Impact Commission (EIC). She said although staff does not usually comment on lease terms, it is necessary in this case to point out what things need to corrected or amended. The draft lease contains the standard provisions, but does not include any meets and bounds. At best we should have at least a sketch, preferably a site plan. She continued saying the lease term provision doesn't flow with our approval processes and the language is awkward. She said we have to eliminate the conditional approval phrase because we don't give

conditional approvals; it's either approved or denied. She said they have to add that the tenant is responsible for obtaining all land use approvals for the site. Also a final lease must be provided to the Planning Commission with the site plan application. If the site plan approval requires any conditions or modifications to the lease, it will have to be amended to reflect them. The draft lease has language that would allow the tenant to make changes to the property, which should not be allowed unless approved by the municipality. Also it says that fencing could be installed. That would have to be shown on the site plan. She said there is language in the draft lease that could be misconstrued to allow other uses of the site. And the language about permitted transfers should be deleted because subletting or assigning this would be a bad idea. The property owners should be the only ones allowed to make that kind of decision, not the tenants. She said finally this is a parking area, but it is not required parking for this site. It is a stand alone use separate from shopping center and we need to treat everyone the same.

Mr. Urice said he appreciated all the work that went into this report but more needs to be said. It seems like their lease terms are designed to circumvent our Zoning Regulations. These terms as proposed could put the City in an awkward situation. Ms. Hoffstaetter asked if the lease supersedes the Zoning Regulations. Mrs. Calitro said much of the language in it bypasses the Regulations which is why the Department is suggesting they give this a negative recommendation. Mr. Urice said much of this language needs to be changed. Chairman Finaldi pointed out that this is a referral which means positive or negative with reasons. Mr. Urice said they want to be sure to give teeth to their recommendation. Chairman Finaldi said there is one sentence in the conclusion of the report that says it all so they just need to include that in their reasons.

Ms. Hoffstaetter made a motion to give this a negative recommendation because there are important land use approval issues and relevant language revisions as described in the attached report that should be resolved prior to consideration by the City Council. Mr. Urice seconded the motion. Mr. Urice then suggested this might be in direct conflict with the Zoning Regulations. Mrs. Calitro said all we were given was the draft lease, no details were provided. She said even though there may be other issues, we will have to wait for the site plan review to see what else comes up. Chairman Finaldi called the vote on the motion to give a negative recommendation and it was passed unanimously.

At 8:45 PM, Mr. Urice made a motion to adjourn. Mr. Keller seconded the motion and it was passed unanimously.